

REMARKS

This responds to the Office Action dated August 16, 2007.

Claims 1, 6, 12, 14, 16, 18-22, 27, and 33 are amended, claim 2 is canceled, and claims 41-44 are added. Claims 1 and 3-44 are now pending, of which claims 34-40 are withdrawn.

The claims are amended to more clearly define the subject matter and the new claims are based on claims identified by the Examiner as allowable.

Examiner Interview Summaries

Applicant graciously thanks the Examiner for the courtesy of telephonic interviews on November 6 and November 15, 2007 with Applicant's representative David W. Black.

The November 6 interview included a discussion of claims 19-21 (and rejection under 35 U.S.C. § 112), claim 14 (in view of Foulkes), and claim 1 (in view of Ren).

The November 15 interview included a discussion of proposed amendments to claims 1, 14, 22, and 27 and included a discussion of cited documents Foulkes (7,175,594), Ren, et al. (5,688,264), Prywes (6,010,518), Sewell (5,359,995), Sher (5,171,254), Lyons (5,054,906), and Asrican (3,680,546). The Examiner noted that the proposed amendment to claim 14 is adequate to overcome the anticipation rejection as to Foulkes, Asrican, Sher, and Lyons. The Examiner did not clearly state that the proposed amendments to claims 1, 22, and 27 were sufficient to overcome the anticipation rejection as to the cited art.

§112 Rejection of the Claims

Claims 19-21 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

Claims 19-21 are amended to more clearly identify the claimed subject matter.

Reconsideration and allowance of claims 19-21 is respectfully requested.

§102 Rejection of the Claims

Claims 14, 17, 18, 20 and 21 were rejected under 35 U.S.C. § 102(e) as being anticipated by Foulkes (7,175,594). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Foulkes does not appear to disclose all elements recited in amended claim 14. Applicant respectfully requests reconsideration and allowance of independent claim 14 and dependent claims 17, 18, 20 and 21.

Claims 1-3 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ren, et al. (5,688,264). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Ren does not appear to disclose all elements recited in amended claim 1. For example, Applicant is unable to find, in Ren, a disclosure of a curvilinear guide configured to remain in a fixed position relative to the eye and a thruster selectively repositionable along a length of the curvilinear guide and relative to a static position of the curvilinear guide and wherein the thruster is adjustably deployable at the position of the thruster, as recited or similarly incorporated in the claims.

Applicant respectfully requests reconsideration and allowance of independent claim 1 and dependent claims 3 and 5.

Claims 27 and 31-33 were rejected under 35 U.S.C. § 102(b) as being anticipated by Prywes (6,010,518). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Prywes does not appear to disclose all elements recited in amended claim 27. For example, Applicant is unable to find, in Prywes, a disclosure of a curvilinear guide tube having an aperture in a side wall, as recited or similarly incorporated in the claims.

Applicant respectfully requests reconsideration and allowance of independent claim 27 and dependent claims 31-33.

Claims 27, 28, 29 and 33 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sewell (5,359,995). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Sewell does not appear to disclose all elements recited in amended claim 27. For example, Applicant is unable to find, in Sewell, a disclosure of a curvilinear guide tube having an aperture in a side wall, as recited or similarly incorporated in the claims.

Applicant respectfully requests reconsideration and allowance of independent claim 27 and dependent claims 28, 29, and 33.

Claims 14, 17, 20 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sher (5,171,254). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Sher does not appear to disclose all elements recited in amended claim 14. Applicant respectfully requests reconsideration and allowance of independent claim 14 and dependent claims 17, 20 and 21.

Claims 14, 17, 19, and 22-24 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lyons (5,054,906). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Lyons does not appear to disclose all elements recited in amended claim 14. Applicant respectfully requests reconsideration and allowance of independent claim 14 and dependent claims 17, 19, and 22-24.

Claims 1-5, 8, 9, 11, 14, 17 and 19-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Asrican (3,680,546). In view of the amendments noted herein, Applicant respectfully traverses this rejection.

Asrican does not appear to disclose all elements recited in amended claim 1. For example, Applicant is unable to find, in Asrican, a disclosure of a curvilinear guide configured to remain in a fixed position relative to the eye and a thruster selectively repositionable along a length of the curvilinear guide and relative to a static position of the curvilinear guide and wherein the thruster is adjustably deployable at the position of the thruster, as recited or similarly incorporated in claims 1, 3-5, 8, 9, and 11. In addition, Applicant is unable to find, in Asrican, a disclosure of a thruster means coupled to the track and configured to exert a depression force on

a user selectable radial portion of the eye, the portion of the eye determined by a position of the thruster means relative to the track and whereby the thruster means is repositionable along the track and wherein the position of the thruster means is independent of a position of the first tubular leg and a position of the second tubular leg, as recited or similarly incorporated in claims 14, 17, and 19-21. Furthermore, Applicant is unable to find, in Asrican, a disclosure of a light coupled to the track and adapted to illuminate a portion of the eye wherein the light is repositionable along a length of the track, as recited or similarly incorporated in claims 22-26.

Applicant respectfully requests reconsideration and allowance of claims 1, 3-5, 8, 9, 11, 14, 17 and 19-26.

§103 Rejection of the Claims

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Foulkes (U.S. 7,175,594).

Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Prywes (U.S. 6,010,518).

Claim 32 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sewell (U.S. 5,359,995).

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sher (U.S. 5,171,254) or Lyons (5,054,906).

Claim 10, 13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Asrican (U.S. 3,680,546).

For at least the reasons noted earlier, Applicant traverses these rejections and submits that the cited documents do not teach, disclose, or even suggest all the elements recited in the independent claims from which each of claims 10, 13, 15, 30, and 32 depend.

Applicant respectfully requests reconsideration and allowance of claims 10, 13, 15, 30, and 32.

Allowable Subject Matter

The Office Action notes that claims 4, 6-9, 11, 12, 16, 25 and 26 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In a brief teleconference between Applicant's representative and the Examiner on October 16, 2007, the Examiner clarified that claims 6, 7, 12, and 16 are objected to and that claims 4, 8, 9, 11, 25, and 26 were rejected as noted in the Office Action.

Accordingly, Applicant has rewritten claims 6, 12, and 16 as independent claims (with claim 7 depending from claim 6) and thus, each is believed to be in condition for allowance. New claims 41-44 are based on originally filed claims 6, 7, 12, and 16 and depend from claims that are believed to be in condition for allowance.

Applicant respectfully requests reconsideration and allowance of claims 6, 7, 12, and 16 and consideration and allowance as to new claims 41-44.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of

the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date: November 16, 2007

By 

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of November 2007.

PATRICIA A. HULTMAN

Name


Signature